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Attorneys for Plaintiff  
GEN-PROBE INCORPORATED

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

GEN-PROBE INCORPORATED,  
  
Plaintiff,  
  
v.  
  
VYSIS, INC.,  
  
Defendant.

No. 99CV2668 H (AJB)

**NOTICE OF MOTION AND MOTION OF GEN-PROBE INCORPORATED FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

Date: February 20, 2001  
Time: 10:30 a.m.  
Dept.: Courtroom 1

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**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:**

**PLEASE TAKE NOTICE** that on February 20, 2001 at 10:30 a.m. in Courtroom 1 of the above entitled court located at the United States Courthouse, 940 Front Street, San Diego, California 92101, plaintiff Gen-Probe Incorporated ("Gen-Probe") will and hereby does move the Court for an Order under Federal Rule of Civil Procedure, Rule 15 for leave to file a Second

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Amended Complaint, the proposed form of which is attached as Exhibit 7 to the accompanying Declaration of Stephen P. Swinton.

By its proposed Second Amended Complaint, Gen-Probe seeks to add new counts for unenforceability due to inequitable conduct and prosecution laches. Gen-Probe has recently confirmed the facts that support these claims. Gen-Probe's motion is timely and made in good faith. Moreover, the proposed amendments will not cause Vysis to suffer prejudice and are not futile.

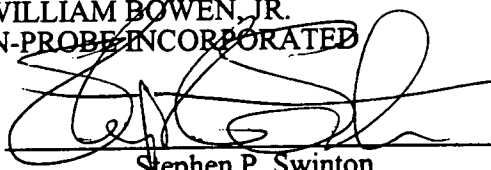
This Motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, the Declaration of Stephen P. Swinton, the Notice of Lodgment, and on such other and further oral and documentary evidence as the Court may consider at the time of the hearing.

Dated: January 19, 2001

STEPHEN P. SWINTON  
COOLEY GODWARD LLP

DOUGLAS E. OLSON  
BROBECK PHLEGER & HARRISON LLP

R. WILLIAM BOWEN, JR.  
GEN-PROBE INCORPORATED

By:   
Stephen P. Swinton

Attorneys for Plaintiff  
GEN-PROBE INCORPORATED